



## Decision

**Matter of:** U.S. Consumer Product Safety Commission—Use of American Rescue Plan Act Appropriation for Activities of the Inspector General

**File:** B-334321

**Date:** February 8, 2023

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### DIGEST

Congress annually makes an appropriation to the U.S. Consumer Product Safety Commission (CPSC) for the agency’s salaries and expenses. CPSC ordinarily obligates this appropriation for the expenses of its Office of Inspector General (OIG). In 2021, the American Rescue Plan Act (ARPA) made an appropriation to CPSC for particular purposes related to the COVID-19 pandemic. CPSC asks whether this ARPA appropriation is available for OIG’s activities necessary to monitor the agency’s use of the ARPA funds, even though CPSC ordinarily obligates its annual salaries and expenses appropriation for OIG’s activities. We find that there is a reasonable and logical relationship between the purpose of the ARPA appropriation and OIG’s activities to monitor CPSC’s use of the ARPA appropriation and, therefore, that the ARPA appropriation is available for expenses arising from such OIG activities. Further, specific language in the ARPA appropriation permits CPSC to obligate these OIG expenses against the ARPA appropriation, its annual salaries and expenses appropriation, or both.

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### DECISION

Congress appropriated to the U.S. Consumer Product Safety Commission (CPSC) amounts available for particular purposes related to the COVID-19 pandemic. CPSC requested our decision on whether the appropriation is available for the activities necessary for CPSC’s Office of the Inspector General (CPSC OIG) to monitor its use.<sup>1</sup> As explained below, we conclude that it is. This appropriation is

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<sup>1</sup> Letter from General Counsel, CPSC, to General Counsel, GAO (May 11, 2022) (Request Letter).

available in addition to other appropriations that may be available to CPSC for such OIG activities, such as CPSC's salaries and expenses appropriation.

Our regular practice when rendering decisions is to obtain facts and legal views from the relevant agencies.<sup>2</sup> CPSC provided the necessary information and its legal views in its Request Letter.

## BACKGROUND

The Inspector General Act of 1978, as amended, established CPSC OIG as an independent unit within CPSC.<sup>3</sup> The Inspector General Act authorizes CPSC OIG to “conduct, supervise, and coordinate audits and investigations relating to the operations” of CPSC.<sup>4</sup> This includes the authority to make recommendations regarding CPSC policies “for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, [CPSC’s] programs and operations.”<sup>5</sup> Generally, CPSC receives an appropriation for salaries and expenses each fiscal year.<sup>6</sup> CPSC OIG is ordinarily funded through this salaries and expenses appropriation.<sup>7</sup>

In fiscal year 2021, section 7401 of the American Rescue Plan Act (ARPA) appropriated to CPSC \$50,000,000, to remain available until September 30, 2026, for specified purposes related to the COVID-19 pandemic.<sup>8</sup> CPSC has several initiatives designed to achieve the purposes set out by the ARPA appropriation.<sup>9</sup> CPSC reported that it will need to “develo[p] or modif[y] new procedures for product, website, and port surveillance; see[k] new vendors or vendor services for information

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<sup>2</sup> GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at <https://www.gao.gov/products/GAO-06-1064SP>.

<sup>3</sup> Pub. L. No. 95-452, 92 Stat. 1101 (Oct. 12, 1978), as amended by Pub. L. No. 100-504, 102 Stat. 2515 (Oct. 18, 1988), 5 U.S.C. app. § 3 (Inspector General Act).

<sup>4</sup> Inspector General Act, § 4(a)(1).

<sup>5</sup> Inspector General Act, § 4(a)(3).

<sup>6</sup> See, e.g., Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, div. E, title V, 136 Stat. 49, 267 (Mar. 15, 2022).

<sup>7</sup> Request Letter, at 2; U.S. Consumer Product Safety Commission, *Fiscal Year 2022 Operating Plan*, Sept. 24, 2021, at 5, available at <https://www.cpsc.gov/content/FY-2022-Operating-Plan> (last visited Nov. 28, 2022) (CPSC FY22 Operating Plan).

<sup>8</sup> American Rescue Plan Act of 2021, Pub. L. No. 117-2, title VII, subtitle D, § 7401, 135 Stat. 4, 108 (Mar. 11, 2021).

<sup>9</sup> Request Letter, at 2.

technology for data collection and analysis; and communicat[e] with the public directly through partner entities.”<sup>10</sup> CPSC will conduct these activities pursuant to ARPA, CPSC’s organic statute, and other applicable laws.<sup>11</sup>

According to CPSC, “ARPA funds represent high-risk areas for CPSC because of the magnitude of the funds relative to the agency budget” and CPSC anticipates that CPSC OIG will take on additional work to monitor those programs and initiatives related to those funds.<sup>12</sup>

## DISCUSSION

CPSC requested our decision on whether funds ARPA appropriated to it are available for CPSC OIG’s activities to monitor their use.<sup>13</sup> As explained below, because CPSC OIG activities bear a reasonable and logical relationship to the appropriation and the funds were made “in addition” to amounts otherwise available for these purposes, we find that ARPA funds are available for this purpose.

Appropriated funds are available only for authorized purposes. 31 U.S.C. § 1301(a). The ARPA appropriation does not specifically state that it is available for the expenses of CPSC OIG. Accordingly, we apply a three-part test to determine whether the appropriation is so available. See, e.g., B-331419, July 1, 2021; B-330984, May 27, 2020. An appropriation is available for a particular purpose if the obligation or expenditure (1) bears a logical relationship to the appropriation charged, (2) is not otherwise prohibited by law, and (3) is not otherwise provided for. B-332530, Feb. 18, 2021. With respect to step two, we are unaware of any statutory provision that specifically prohibits the use of CPSC’s appropriations for its OIG’s activities. Accordingly, at issue here are steps one and three of this analysis.

### Step 1: reasonable, logical relationship to the appropriation

To determine whether a reasonable, logical relationship exists between the appropriation and the expenses, the starting point is the text of the appropriation. See, e.g., B-330984, May 27, 2020; B-330776, Sept. 5, 2019. Section 7401 of ARPA appropriated \$50,000,000 for CPSC to perform a list of specified purposes primarily related to the COVID-19 pandemic and COVID-19 consumer products. This includes activities related to enhancing targeting, surveillance, and screening of consumer products; enhancing the monitoring of internet websites for the sale of violative consumer products; increasing awareness and communication of COVID-19 product related risks; and improving CPSC’s data collection and analysis systems with a focus on COVID-19 consumer product risks to vulnerable populations. Pub.

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<sup>10</sup> *Request Letter* at 4.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

L. No. 117-2, § 7401. The funds were also made available to carry out certain CPSC COVID-19 related requirements found in the Consolidated Appropriations Act, 2021. *Id.*; See also, Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. FF, title XX, § 2001, 134 Stat. 1182, 3301 (Dec. 27, 2020).

In addition to the text of the appropriation, other laws may also be relevant to an appropriation's purpose availability, such as the laws that establish an agency and govern its activities. Under well-established rules of statutory interpretation, Congress intends to achieve a consistent body of law, and agencies must give full force to all applicable laws as they carry out their activities. See *Maine Community Health Options v. United States*, 140 S. Ct. 1308, 1323 (2020); *Morton v. Mancari*, 417 U.S. 535, 551 (1974). Thus, an appropriation available for a specific purpose may also be available for expenses necessary for the agency to ensure that it carries out that purpose in a manner consistent with all applicable law.

For example, we have concluded that agency appropriations were available for expenses an agency may incur incident to compliance with the Rehabilitation Act of 1973, the Occupational Safety and Health Act of 1970, and the Federal Employees Clean Air Incentives Act, among other laws. See B-324588, June 7, 2013; B-318325, Aug. 12, 2009; 67 Comp. Gen. 104 (1987). Here, the Inspector General Act established CPSC OIG and vested it with the duty to review CPSC programs, activities, and operations. Inspector General Act, § 4. Among CPSC OIG's many statutory duties are conducting audits and investigations of CPSC activities; promoting economy and efficiency; preventing fraud and abuse in the administration of CPSC programs; and keeping CPSC and Congress informed on fraud and other serious problems relating to the administration of CPSC programs. *Id.*

Therefore, we conclude that amounts appropriated to CPSC under ARPA are available for expenses CPSC OIG incurs as it monitors CPSC's use of the ARPA appropriations. Such expenses bear a reasonable, logical relationship to the purpose of the appropriation ARPA makes, not only because CPSC OIG's expenses are a necessary incident to CPSC's compliance with the Inspector General Act, but also because such expenses contribute to the agency's proper and effective use of the funds.

### Step 3: expense is not otherwise provided for

CPSC typically funds CPSC OIG from CPSC's annual salaries and expenses appropriation. Request Letter, at 2 n.3; CPSC FY22 Operating Plan, at 5. Under the third step of the purpose analysis, we consider whether CPSC must use its annual salaries and expenses appropriation, rather than the ARPA appropriation, for the expenses OIG incurs as it monitors CPSC's use of the ARPA amounts. An appropriation is not available for an expenditure where another appropriation is more specifically available for the expenditure. B-330984, May 27, 2020; B-307382, Sept. 5, 2006. Where two appropriations are equally available for a particular object, the agency generally must elect to charge a single appropriation for such an object

and must continue to use that same single appropriation. B-330984, May 27, 2020; B-307382, Sept. 5, 2006. Although rare, there are some occasions in which Congress makes an appropriation that is available in addition to other appropriations available for the same object. B-330984, May 27, 2020; B-322062, Dec. 5, 2011. On such occasions, an agency may elect to use both the additional appropriation and the other appropriations for the particular expense. B-330984, May 27, 2020; B-322062, Dec. 5, 2011.

For example, we once considered whether an appropriation made “in addition to amounts otherwise made available” to the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) was available to fund certain oversight investigation activities, notwithstanding a second appropriation equally available to SIGTARP for the proposed activities. B-330984, May 27, 2020. There, we found that the language of the statute clearly provided that the amounts in the appropriation at issue were made available *in addition to*, and not exclusive of, other funding sources available to SIGTARP. *Id.* at 5. This language made clear that the appropriation at issue and other appropriations were both available for SIGTARP to carry out its oversight activities. *Id.*

Conversely, we also considered whether funds from the Deposit Insurance Fund (DIF) were available to the Federal Deposit Insurance Corporation’s (FDIC) OIG where FDIC OIG was affected by a lapse in appropriations when it did not receive its annual appropriation for fiscal year 2019. B-330693, Oct. 8, 2019. In that case we found that although the FDIC has general authority to obligate funds from the DIF, Congress had annually provided FDIC OIG with a separate and more specific appropriation for its activities. *Id.* at 5. As FDIC OIG historically received a specific annual appropriation for its activities and no language in FDIC OIG’s annual appropriations or the DIF organic legislation indicated Congress intended both funding sources to be available for the activities, we found that the DIF was not available to FDIC OIG to fund its activities during the lapse in appropriations. *Id.*

ARPA section 7401 states that the amounts appropriated to CPSC are available “[i]n addition to amounts otherwise available. . . .” to CPSC. Pub. L. No. 117-2, § 7401(a). The phrase “in addition to” clearly provides that the funds appropriated by section 7401 were made available to CPSC, and by extension CPSC OIG, in addition to funds otherwise available to CPSC. This includes CPSC’s salaries and expenses appropriation from which CPSC has historically funded CPSC OIG. In light of that clear statutory language, CPSC has the option to obligate OIG expenses for monitoring the use of the ARPA appropriation against the ARPA appropriation, its annual salaries and expenses appropriation, or both.

## CONCLUSION

Funds appropriated to CPSC under ARPA section 7401 are available for CPSC OIG’s activities to monitor the agency’s use of the ARPA funds. The ARPA funds

are available in addition to other appropriations that are available for CPSC OIG's activities.

A handwritten signature in cursive script that reads "Edda Emmanuelli Perez".

Edda Emmanuelli Perez  
General Counsel